



## COMMUNITY DEVELOPMENT DEPARTMENT

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### PLANNING COMMISSION MEETING MINUTES

#### REGULAR MEETING

**JULY 12, 2011**

PRESENT: Mueller, Tanda, Koepp-Baker, Benich, Dommer, McKay

ABSENT: Moniz

LATE: None

STAFF: City Attorney (CA) Wan, Assistant City Manager (ACM) Little, Community and Economic Development Administrator (CEDA) Rowe, Senior Planner (SP) Tolentino, Budget Manager (BM) Forbis, and Development Services Technician (DST) Bassett

Vice-chair Benich called the meeting to order at 7:01 p.m., inviting all present to join in reciting the pledge of allegiance to the U.S. flag.

#### **DECLARATION OF POSTING OF AGENDA**

Development Services Technician Bassett certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

#### **OPPORTUNITY FOR PUBLIC COMMENT**

Vice-chair Benich opened, and then closed, the floor to public comment for matters not appearing on the agenda as none were in attendance indicating a wish to address such matters.

#### **MINUTES:**

**June 26, 2011**

**The June 28<sup>th</sup> minutes will be included in the August 9 agenda packet.**

#### **ORDERS OF THE DAY**

No changes.

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**CONTINUED**  
**PUBLIC**  
**HEARING:**

**1) AMENDMENT**  
**TO POLICY FOR**  
**TENTATIVE**  
**SUBDIVISION**  
**MAP**  
**APPROVAL**  
**PRIOR TO**  
**AWARD OF**  
**ALLOCATIONS**

A request to amend City Council policy CP 06-04 “Tentative Subdivision Map Approval.” The specific request is to eliminate the ongoing project requirement, approved master plan requirement and eliminate the two year tentative map expiration for projects seeking tentative map approval for projects that are not fully allocated.

Wan presented his staff report.

Mueller: If we approve a map on January 1, 2012, the tentative map would expire on January 2, 2022, regardless?

Wan: If you file Jan. 1, 2012, and then you do nothing, your map would expire Jan. 1, 2014. However, if you get the allocations and you meet all the conditions and deadlines, then upon the filing of the first final map you would get an automatic 36 month extension on the tentative map. That would occur for each subsequent phase with a maximum extension of ten years.

Mueller: Item 4b would be clearer if it said “including the award of allocations for ongoing setasides” because typically there isn’t an application for that. They just indicate that they’re eligible and that’s all they want. We should also drop the language in item 3 that says “ongoing phased project” because there is a specific definition relating to projects receiving allocations as an ongoing setaside and we don’t want to confuse that.

McKay: Is there a possibility that the \$178,000 is a limiting factor to who can qualify?

Wan: It tracks the state legislation, and for a large project that would not be very much.

Benich: Given all the conditions in item 4, who in the city will review and monitor this?

Rowe: It is one component of the quarterly monitoring of the RDSCS.

Benich opened the floor to public comment.

Mike Fletcher appeared on behalf of the San Sebastian project: We are very grateful for your efforts on this item. We have submitted our planning applications and we are hopeful that this will pass tonight. We have submitted the PUD, the zoning amendment and the tentative map along with architectural drawings. We’re pushing forward with a 244 unit tentative map. Providing a tentative map at the beginning of a project streamlines the process; it makes a project much for financeable; and it forces us to submit a better project.

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Dick Oliver of Dividend Homes appeared: I support this change but would like some clarification. In our current Measure C process we commit to \$6,600 per unit for offsite improvements, which equates to 27 units. If a first phase is less than 27 units, they may not meet the threshold. So I hope the units are cumulative and that you don't have to meet that threshold with every single phase.

Benich closed the public comment period.

Benich: Danny, could you comment on Mr. Oliver's concern?

Wan: The interpretation would be that at the time you seek to extend the tentative map, you would have to have committed to at least \$178,000 worth of improvements for the entire project, so it would be cumulative. It could be problematic for a first phase, though.

Benich: If a developer sells a project, would the new developer be responsible for the same amount?

Wan: The developer that buys the project would have to accept the obligations of the first developer.

Mueller: Is there any requirement on the city to ensure that the allocations will be available, if we allow a tentative map to be approved before allocations have been awarded?

Wan: We are allowing a tentative map up front, but the understanding is that there may not be allocations in the future. That's why the tentative map is non-vesting. Also, the development agreement states that the developer is still subject to all the conditions of the RDCS.

Tanda: How did the \$178,000 get determined?

Wan: It is state code. It's set by the state legislature and it increases each year for inflation. That's why a specific amount isn't stated.

Mueller: One thing to remember is that the only people that are going to use this tentative map process are those that can't get all their allocations in the first or second year of competition.

### Discussion:

Mueller: I expressed concern about this at the last meeting and I'm still concerned. The RDCS has been extended three or four times. In two of those approvals, the original RDCS had a four-lot exemption. In one of those extensions, there was a perception that this was being abused or the cause of too much growth so it was removed from the measure. Another perception was that RDCS projects were gathering too much value and so the public reacted with one sentence, which has now held up one project for ten years. We are stretching the literal interpretation here and there may be consequences by the public to this.

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Dommer: I think there are enough safeguards in the non-vesting map to protect against that.

**COMMISSIONERS DOMMER AND TANDA MOTIONED TO APPROVE THE AMENDMENT TO THE POLICY INCLUDING CHANGES TO ITEM 2 TO SAY “SUBMITTED AND COMPLETE”, TO DELETE “ON-GOING” FROM ITEM 3 AND TO ADD VERBIAGE TO ITEM 4 TO INCLUDE LANGUAGE ABOUT THE AWARD OF ALLOCATIONS FROM SETASIDES**

**THE MOTION PASSED (5-1-0-1) WITH THE FOLLOWING VOTE:  
AYES: TANDA, KOEPP-BAKER, BENICH, DOMMER, MCKAY; NOES:  
MUELLER; ABSTAIN: NONE; ABSENT: MONIZ**

**PUBLIC  
HEARINGS:**

**2) USE PERMIT,  
UP-11-01:  
TECHNOLOGY-  
MAGUIRE**

Request for an approval for a conditional use permit to operate a dental practice in an existing building located at 18455 Technology Dr. The property is located in a PUD zoning district with Light Industrial designated uses. The project is categorically exempt from environmental assessment under Section 15301 of the California Environmental Quality Act (CEQA Guidelines) (APN 726-31-012)

Rowe presented his staff report.

Tanda: To what extent does on-street parking fit into the formula for parking requirements?

Rowe: There is an opportunity for some on-street parking.

Tanda: Can a portion of the on street parking count towards off-street needs? I would hate to have more asphalt put onto the site, especially when there is parking on the street that could be utilized.

Rowe: There is ample parking within 300 hundred feet where agreements could be reached to achieve the number of necessary parking stalls.

Benich: Their report suggests that there will be 10-12 dentists and staff members present. My concern is that this only leaves 7-9 spaces for patients.

Rowe: The applicant can provide more details about their business model.

Benich opened the floor to public comment.

Dr. John Maguire appeared: I have been practicing since 1978. My partner and I have worked together for 33 years. In 2006 we opened a practice called Morgan Hill Dental which is located next to Wal-Mart. It is the only full service dental group in Morgan Hill. We currently have nine dentists, but they are not all there at the same time. Our current space is not adequate for our practice. We are a very quiet entity. Waste is dealt with through special agencies. The only issue is

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parking. Our plan is to address that. We want to buy the building, but we need to know if we can put a dental office on the site before we do that. We will work with city staff to make sure we are up to code. But if this item is continued, the building will probably be put back on the market so we would like a decision tonight, if possible.

Koepp-Baker: How long does each patient usually spend in your building?

Maguire: It could be anywhere from 15 minutes to two hours. If there is a patient parking issue, our staff will be the first to park off site.

Koepp-Baker: So parking mitigation is planned?

Maguire: We know that we have to.

Mueller: If you have twelve chairs, how many would be in use at any given hour, on average.

Maguire: We would never have all nine dentists there at the same time. But a dentist would generally use two or three chairs at a time.

Mueller: You're under contract to purchase the building?

Maguire: Yes, we need to close next week.

Mueller: We do not have a resolution in front of us tonight, so we can't vote on it tonight.

Rowe: But you can give some indication, contingent upon the applicant coming forward with an acceptable parking plan, that you would feel comfortable approving this location for a dental office. Then it could come back for the resolution at a later date.

Jeff King, architect, appeared on behalf of the project: There are ways we can get more room out of the site. Worst case scenario is that we could demolish 1,000 square feet to put in another six parking stalls. With a concrete tilt-up building we don't want to do that, but we understand that parking has to be met. With limited resources, we don't want to move forward without some sort of idea of whether a dental group would be allowed to go here. We could potentially double load parking spaces at the back of the building. We could also get another space by going to compact size. We could consider staff parking that doesn't move during the day.

Benich closed the floor to public comment.

Dommer: I feel it's a compatible use, it fills vacant space and the parking issue is resolvable.

Koepp-Baker: I agree.

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McKay: I think it would work, especially with the parking mitigation measures.

Tanda: I don't think less vacancy is a consideration since they're just trading one space for another. But if the only consideration is parking, I think that can be satisfactorily addressed.

Mueller: I'm sure a parking agreement could be worked out and would be pretty easy to solve. We don't want to change the building size. I would not recommend changing the site to accommodate ingress and egress. I would rather see access to some parking be gained somewhere else.

Benich: I agree. I think the parking problem can be solved.

**COMMISSIONERS MUELLER AND DOMMER MOTIONED TO  
CONTINUE AGENDA ITEM 2 TO AUGUST 9, 2011**

**THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE:  
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: MONIZ.**

**3) ZONING**  
**AMENDMENT,**  
**ZAA-03-**  
**15A/SUBDIVISIO**  
**N AMENDMENT,**  
**SDA-05-02:**  
**PEET-LUPINE**

A request for approval to amend the precise development plan and subdivision map for Phases 4 and 5 of the Alicante Estates Project. The proposed amendments would relocate two previously approved lots to an area currently designated for an open space/park area and create a remainder parcel for a future two-lot subdivision. The proposed amendments would allow for the creation of two additional residential lots, resulting in a total of 94 residential units at project build out. The overall Alicante Estates project is approximately 62 acres in size, and is located in an R1(12,000)/Planned Development Zoning District (APNs 728-34-025 and 728-49-001 thru 025, -028 thru -046, -048 thru -059, -061, and -063 thru -069).

Tolentino presented her staff report and stated this application was prompted by a request from the HOA. They would like to build a tennis court in the Phase 5 park area and the sale of two additional units would help finance that.

Tanda: Are the three lots that about the two relocated units developed?

Tolentino: One is under construction; the other two are undeveloped.

Mueller: Will the tennis court be non-lighted, daytime use only?

Tolentino: The applicant can answer regarding the proposed plans for the tennis court.

Benich: Is there a way for the people who live behind the park to walk directly to the tennis court?

Tolentino: There is no plan for that.

Benich: Would the two new homes be included in the Alicante Homeowners Association?

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Tolentino: Yes, similar to what we've done with other projects that added allotments.

Benich: The site plan shows a site for a future school. Is that approved?

Tolentino: No, the school district hasn't accepted the site yet for a future school.

Mueller: Where in the development agreement would we add the condition that the two new homes be included in the Alicante HOA?

Rowe: This is the third project that has done this. We can incorporate the same language.

Dommer: With regard to open space, is it basically the same amount of open space after the changes?

Tolentino: Overall, it will reduce the size of the open space by about an acre, but they are still providing more than is required and it is still enough to meet the points they were awarded in the RDCS competition.

Benich: If they still have to maintain the same amount of points in the RDCS, the tennis court would give them four points. Where would they get the other three points and where would they put them?

Tolentino: There are several ways to make up those points, such as with picnic tables or a barbecue pit.

Benich opened the floor to public comment.

Dick Oliver of Dividend Homes appeared on behalf of the project: Part way through this project, we purchased additional acreage from the Borello family. We called it the Ranch at Alicante. Those units were annexed into the HOA. Because of the large size of their lots and the amount of open space, the homeowners approached us about reducing their water fees. It took four years to work that out with the Santa Clara Valley Water District. But we did it because the homeowners approached us. The location of the tennis court is a homeowners' compromise. The tennis court is what they want. We will also be providing a shade structure, possibly a bocce ball court, and a swing set for older kids. We don't propose putting in lights for the tennis court at this time.

Koepp-Baker: How many years are left for the school district to exercise the option to use that acreage for a school?

Oliver: There are three years left. But there are several reasons they haven't accepted it: They don't have a need right now; they don't have the funds; and there are liability issues because it runs over some high pressure gas lines and is so close to the dam. There is the possibility that it might be made into a city park. There may be a greater need for a city park there.

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Dommer: Usually standard tennis courts are oriented due north-south. This appears to be off.

Oliver: It may be, but we tried to get it as close as possible with the least sun impact.

**COMMISSIONERS MUELLER AND KOEPP-BAKER MOTIONED TO RECOMMEND APPROVAL OF THE AMENDED PRECISE DEVELOPMENT PLAN FOR ALICANTE ESTATES**

**THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE:  
AYES: ANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: MONIZ.**

**COMMISSIONERS MUELLER AND TANDA MOTIONED TO APPROVE THE SUBDIVISION RESOLUTION WITH THE AMENDMENT THAT THE TWO NEW HOMES BE ANNEXED INTO THE HOA AND WITH THE DELETION OF PUBLIC WORKS ITEM NO. 7 ON PG 6 OF THE RESOLUTION**

**THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE:  
AYES: ANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: MONIZ.**

### **OTHER BUSINESS:**

Update on the FY11-12 budget and the impact of budget actions upon the Planning Commission work plan.

### **4) BUDGET UPDATE PRESENTATION**

Forbis presented his budget report.

Mueller: We ought to look at lowering our contract amounts paid to the fire department.

Koepp-Baker: What percentage of employee costs goes toward benefits?

Forbis: Around 35 percent for a regular employee. Maybe 40 to 45 percent for police.

Little presented her community development report: Decisions were made up to two years ago that set the stage for restructuring in order to cut costs and realign employee functions to meet needs while cutting services. We created a downtown development corporation to meet our downtown goals and we transferred our investments and properties into that entity. We had to prepare for the fact that we no longer receive funds from the county for administering the County Development Block Grant (CDBG) program. The city CIP program for the past ten years has been funded by the RDA program. We will have to limit economic development because we no longer have the funds or the staff. By the restructure, we have tried to eliminate thinking about what fund employees are paid from. We did combine public works and utility functions together. We have downsized our staff and we are looking at opportunities for ways to streamline. We're also looking at how to trim RDCS, which is such a huge process and overwhelming for staff.



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Benich: It seems that money that would have been used for blight could be redirected to the general fund.

Little: It doesn't work that way. It will take many years before we see net gains, based on what we currently use to support our general fund right now. The general fund costs are greater than the property tax.

Mueller: Why?

Little: Nearly two million dollars will go immediately into the school fund and then there are other obligations.

Mueller: When will we get our full property tax?

Little: In year two.

Dommer: Regarding permitting, is all planning checking done in-house?

Little: Most of it, but we're testing having contractor services for specialty planning. We have chosen to keep most permit plan checking and inspection services under our own roof. However, planning services for large projects may be handled on a contract service arrangement.

Dommer: What will happen to Jim Rowe's position?

Little: It was eliminated with the budget cuts. He will be retiring and will come back to help with trimming RDCS.

Tanda: If we're going to spend all the time to restructure, will there be a process to measure ourselves and see what kind of service we're giving?

Little: The amounts of time for processing applications are usually an average. We're looking at ways to team so that the different divisions can review concurrently to cut review times. We're going to test and revisit those times. We've spent a lot of time identifying potential areas to cut and restructure and we're beginning to form teams to accomplish this and deliver the services.

Mueller: Are there ways planning commissioners can help?

Little: We're certainly in a position to use a lot of hands, so let me think about that.

### **ANNOUNCEMENTS/ COMMISSIONER IDENTIFIED ISSUES**

There is a joint workshop with City Council on July 27 at 5:00 p.m. and it will be focused on RDCS extensions.

### **CITY COUNCIL REPORTS**

None.

### **ADJOURNMENT**

Noting that there was no further business for the Planning Commission at this meeting, Vice-chair Benich adjourned the meeting at 9:51 p.m.

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**MINUTES RECORDED AND TRANSCRIBED BY:**

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**ELIZABETH BASSETT, Development Services Technician**

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